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PATENT
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: John WALKER, et al

Serial No.: 08/913,430

Group No: 1641

Filed: September 12, 1997

Examiner: R. Swartz

For: ANTIGEN COMPOSITION AGAINST MYCOPLASMA

Attorney Docket No.: U-011415-0

**Commissioner Patents and Trademarks
Washington, DC 20231**

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

In response to the Official Action of July 13, 1998, wherein the Examiner required restriction between certain groups of claims, the Applicants hereby elect the claims of Group I (claims 44 - 52, 60 - 66, 68, 69, 73 and 74) with traverse. The election is made with traverse insofar as the invention of Group II (claims 53 and 70 - 72, directed to DNA) and the invention of Group III (claims 54 - 59 and 67, directed to an antibody) can be easily derived once the antigen of Group I is identified. The antigen of Group I is a common novel

CERTIFICATE OF MAILING (37 CFR 1.8a)

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CLIFFORD J. MASS

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feature which allows the practicing of the claims to this one invention (Group I) thereby allowing the practicing of the claims to the other invention.

The Examiner has argued that the invention listed as Groups I - III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT rule 13.2, they allegedly lack the same or corresponding special technical features. Applicants respectfully disagree and point to Annex B of the Administrative Instructions under the PCT which contain detailed criteria governing the determination of whether an International Application complies with the requirement of unity of invention under Rule 13. As can be seen, for example, in Example 17 of Annex B (PCT Gazette, No. 24/1996, Page 9482) it is accepted that a protein and the DNA sequence encoding the protein exhibit corresponding special technical features. Moreover, a method for using the antigen of Group I to identify an antibody of Group III is specifically sanctioned in Annex B at paragraph "(e)" (see PCT Gazette No. 24/1996 at page 9475).

In view of the above, Applicants request reconsideration and withdrawal of the restriction requirement. Should the restriction not be withdrawn, Applicants request that the non-elected claims be held in abeyance pending Applicants decision as to whether to file one or more divisional applications directed thereto.

It is now respectfully requested that an examination on the merits be had of at least the claims of elected Group I.

Respectfully submitted,

CLIFFORD J. MASS
LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023
REG. NO. 30,086 (212) 708-1890

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